

Proposed Amendments
Official Code of Cobb County
Chapters 54, 58, 78, 83, 106, 110, 126 and 134
Public Hearing Dates
July 13, 2010 – 9:00 am
July 27, 2010 – 7:00 pm
Draft Amendment Package 1

Cobb County Community Development
P.O. Box 649
Marietta, GA 30061
www.cobbcounty.org

Sec 54-51 Life Safety Certificate of Occupancy Requirement

(a) This code section shall apply to the State Minimum Fire Safety Standards enforced by the Fire Marshal's Office. This code section shall not apply to separate Certificate of Occupancy requirements enforced by the Building Department.

(b) Every building, structure, or tenant space shall have a certificate of occupancy issued by the Cobb County Fire Marshal's Office before such building, structure, or tenant space may be occupied. Such certificates of occupancy shall state the occupant load for such business establishment or building, and shall be posted in a prominent location within such business establishment or building.

Exception 1: One- and Two- family dwellings, one- and two-family row houses (townhouses) separated by a 2-hour fire wall and two-family town houses separated by a 2-hour fire wall.

Exception 2: Residences providing in-home day care (if five or less clients/attendees) and businesses not open to the public located in one- and two- family dwellings.

(c) Such certificates of occupancy shall run for the life of the building, structure or tenant space, except where there is ~~an substantial renovation, renovation, addition,~~ a change in the classification of occupancy, substantial renovation, reconstruction due to fire or other hazard of serious consequence, renovation or addition ~~or a change in the classification of occupancy.~~

(d) Change in the classification of occupancy includes changes that place the building, structure, or tenant space in a different subclassification of the same group or occupancy, or in a different group of occupancies.

(e) Where there has been any ~~substantial renovation, renovation, addition,~~ change in the classification of occupancy, substantial renovation or reconstruction due to fire or other hazard of serious consequence, the building or structures therein, shall be constructed to meet requirements for new construction of the code edition adopted at the time ~~of~~ plans are approved for the change of occupancy, substantial renovation, ~~renovation, addition, or~~ reconstruction due to a fire or other hazard of serious consequence, ~~or change in the classification of occupancy.~~

(f) Where there has been any renovation or addition, the area included in the renovation or addition shall be constructed to meet requirements for new construction of the code edition adopted at the time plans are approved for the renovation or addition. For the purposes of this section, the area included in the

renovation or addition shall be limited to such area as clearly outlined on the construction plans/permit documents.

(~~f~~ g) Where there has been no change in the classification of occupancy, substantial renovation, ~~renovation, addition, change in the classification of occupancy, or~~ reconstruction due to fire or other hazard of serious consequence, renovation or addition but merely a change in owner or a change in business name, and a valid certificate of occupancy has previously been issued for the building, structure, or tenant space, a "Notice of Information Change Form" shall be completed by the new owner and/or occupant and submitted to the Cobb County Fire Marshal's Office. A new certificate of occupancy will not be issued if the building, structure or tenant space is located in unincorporated Cobb County or the City of Acworth. A new certificate of occupancy will be issued if the building, structure or tenant space is located in the City limits of Kennesaw or Powder Springs.

(~~g~~ h) Business owners subleasing a portion of any space with a valid certificate of occupancy shall complete a "Notice of Information Change Form" and submit the same to the Cobb County Fire Marshal's Office. A new certificate of occupancy will not be issued if the building, structure or tenant space is located in unincorporated Cobb County or the City of Acworth. A new certificate of occupancy will be issued if the building, structure or tenant space is located in the City limits of Kennesaw or Powder Springs.

(~~h~~ i) For the purposes of this code section, substantial renovation means any construction project involving exits or internal features of such building, or any structure costing more than the building's or structure's assessed value according to county tax records at the time of such renovation.

(~~i~~ j) For purposes of this code section, renovation means any construction project that involves removing and/or adding walls/doors/windows, any electrical or plumbing work or work involving structural components.

Sec. 58-54. Fees.

Permit processing or inspection fees may be established from time to time by the board of commissioners. A schedule of all such fees shall be maintained ~~at the office of the clerk of the board of commissioners and~~ at the offices of the department.

(Ord. of 10-11-88, art. X; Code 1977, § 3-14-31)

Sec. 78-464. Use permit.

(a) No flea market shall be operated upon any realty or in or upon any personalty located on any realty unless and until a special use permit for a flea market is granted by the board of commissioners. This special use permit for a flea market, called "flea market use permit" or "permit" in this section, shall be in addition to all other requirements of the county.

(b) Applications for flea market use permits shall be applied for and advertised in the same manner as applications for rezoning, and public hearings will be held thereon in the same manner as applications for rezoning are conducted, as the same may be amended from time to time. Fees for filing and processing of applications shall be in an amount determined from time to time by resolutions of the board of commissioners. A schedule of the fees shall be maintained on file in the community development department ~~and in the office of the clerk of the board of commissioners.~~

(c) Permits may be issued for such period of time as the board of commissioners deems appropriate under the circumstances of each application.

(d) Flea market use permits shall be granted only if the board of commissioners determines that there will be no significant adverse effect on the surrounding neighborhood or area in which the proposed use will be located; that no nuisance as defined by state law would result to the general area; that the quiet enjoyment of surrounding property would not be adversely affected; and that property values of surrounding property would not be adversely affected. No permit shall be issued where the application or any investigations shows the existence of any of the conditions enumerated in subsection 78-461(d).

(Ord. of 10-25-94; Code 1977, § 3-7-211)

ARTICLE II. WEED CONTROL

Sec. 83-9. Weed control.....

Sec. 83-12. Prohibited.

It shall be unlawful for the owner of any property ~~as defined in this section~~ to permit weeds to obtain a height exceeding 12 inches on at least ten percent of the size of the property tract or 35 percent of the pervious surface, whichever is greater, unless exempted as described in this section.

(Ord. of 2-27-07; Ord. of 7-24-07)

Sec. 83-13. Notice to remove and hearing.

(1) If code enforcement personnel have reason to believe that a violation as described and declared in this section exists, the owner of the offending property shall be notified and requested to cause the condition to be remedied. The notice shall be presented by both a physical posting on the property in the name of the property owner and by certified mail or personal delivery to the owner or owners as their names and addresses are shown on the tax records of the county. Notice shall be deemed complete and sufficient when so physically posted and personally delivered or mailed.

(2) The required notice shall contain the following:

(a) Name(s) and address(es) of the owner(s) of the property, according to the public records of Cobb County, Georgia.

(b) Location of the property on which the violation exists.

(c) A statement by the code enforcement officer that the code enforcement division has reason to believe that a violation of the above section(s) has been determined to exist on the property, which violation constitutes a public nuisance.

(d) A description of the condition which causes the property to be in violation.

(e) A requirement that the record owner of the property remedy the violation within 20 calendar days from the date of the notice, failing which the county will issue a citation to Magistrate Court for property that has not been abandoned or is not vacant as defined in this section. If the property is vacant or abandoned as defined herein, the county will remedy the condition and assess against the record title owner of the parcel of land all the costs thereof plus an administrative charge.

(f) A statement that, if the costs and administrative charge are not paid within 30 calendar days of invoice date, a lien will be placed on the property.

(g) A schedule of the charges which may be assessed against the record owner if the county has to remedy the violation.

(h) An estimate of the total cost, based on the schedule of charges, if the violation is remedied by the county. Such estimate is not to be interpreted or construed as the final cost which may be assessed, but only a good-faith

approximation of such cost. The final assessable cost may be greater or lesser than the estimate.

(i) A statement that the record owner of the property may, within 20 calendar days from the date of the notice, make a written request for a hearing before the ~~board of commissioners~~ board of zoning appeals for the purpose of showing that the cited condition does not constitute a violation.

(3) Within 20 calendar days from the date of the notice, the owner of the property may make a written request to the ~~board of commissioners~~ board of zoning appeals for a hearing before that body to show that the condition does not constitute a public nuisance. Such request shall state the name of the property owner, the location of the cited property, and the grounds upon which the owner relies in order to show that the cited condition does not constitute a public nuisance. At the hearing the county and the property owner may introduce such evidence as is deemed necessary.

(Ord. of 2-27-07; Ord. of 2-26-08)

Sec. 83-14. Removal by county.

If after 20 calendar days from the date of the notice no hearing has been requested, no citation has been issued and the property has been determined to be vacant or abandoned and the condition described in the notice has not been remedied, the code enforcement officer or his/her designee shall cause the condition to be remedied by the county at the expense of the property owner. If a hearing has been held and has concluded adversely to the property owner, the code enforcement officer or his/her designee may cause the condition to be remedied by the county at the expense of the property owner after 72 hours unless the ~~board of commissioners~~ board of zoning appeals directs otherwise.

(Ord. of 2-27-07)

Sec. 83-15. Collection of costs and records; secured property.....

DIVISION 2. PEDESTRIAN LIGHTING DISTRICTS

Sec. 106-161. Lighting cost declared a service.....

Sec. 106-164. Same--Under special conditions.

In areas where special conditions, including but not limited to safety, security, land topography, economic and other factors may be involved, the board may create special pedestrian lighting districts and provide for special pedestrian lights under such terms and conditions as may be determined by the board and in accordance with items 106-164 (a), (b) and (c) and any other provisions of this article to the contrary notwithstanding; provided, however, that in such instances, a public hearing shall be held by the board after advertisement in the official organ of the county one time at least ten days before conducting such public hearing.

(a) In those instances where the petition is within the boundaries of a Community Improvement District (CID) and a single property owner who controls 50% or more of the frontage in a proposed corridor/district signs the petition, the lighting district will be established.

(b) In those instances where the petition is within the boundaries of a Community Improvement District (CID) and the installation cost (bases, wiring and conduit) and the cost of the light fixtures (pedestrian and street) are incurred by an entity other than the property owner and the property owner, by signing the petition, is only agreeing to pay the ongoing energy costs for his frontage, then the threshold of required signatures on the petition may be 50% instead of 75% and;

(c) In those instances where the petition is within the boundaries of a Community Improvement District (CID) the petition signatures can be either the property owner and/or their authorized representative (i.e. property managers, authorized agents of the owner, etc.) as evidenced by affixing a corporate seal to the petition.

(Ord. of 7-24-07)

Sec. 106-165. Responsibility for costs; retirement of existing contracts.....

Sec. 110-55. Maintenance.

The subdivider or person shall maintain all improvements in the subdivision to be dedicated to the county.....

(3) The subdivider shall pay to the county for each inspection, subsequent to the initial inspection provided under subsection (1) of this section, a reinspection fee in an amount set from time to time by resolution of the board of commissioners to defray the cost of reinspection. A copy of the schedule of reinspection fees shall be maintained ~~in the office of the clerk of the board of commissioners and~~ in the offices of the department.

(4) If a period of 18 months elapses.....

Sec. 126-153. Vehicle permit stickers with license.

A business duly licensed to operate a taxicab service pursuant to this article will be issued, at the time of licensing or at the time of providing proof of insurance as required by subsection 126-152(b), vehicle permitting stickers for each vehicle owned, leased or operated by such business, pursuant to the following conditions:.....

(5) A fee schedule for vehicle permit stickers will be recommended by the supervisor of the business license office and approved from time to time by the board of commissioners. Such schedule will be on file with ~~the clerk of the county,~~ the business license office and the department of public safety. It shall be the responsibility of the licensee to renew vehicle permit stickers annually. Any licensee who fails to timely renew its vehicle permit and pay such fee when due shall pay, in addition to such fee, a separate penalty equal to ten percent of the permit sticker fee for each period of 30 days, or portion thereof, following the due date. To be considered a county business for purposes of determining vehicle sticker permit fees, a business must have or operate out of one or more offices in the unincorporated part of the county. A post office box will not constitute an office.

(6) If a business license is suspended.....

Sec. 126-171. Regulation of drivers of vehicles for hire.

(a) No person shall operate

(g) A schedule of permit fees, as adopted from time to time by the board of commissioners, shall be posted in the offices of ~~the clerk of the county and the~~ community development agency and the public safety agency. Any permittee who fails to timely renew his permit and fails to pay such fee when due shall pay, in addition to such fee, a separate penalty equal to ten percent of the required fee, for each period of 30 days, or portion thereof, following the due date. If the fees adopted from time to time by the board of commissioners provide for different fees for county drivers/operators than for noncounty drivers/operators, to be considered a county driver/operator and pay fees associated therewith, a driver must have or operate out of one or more offices in the unincorporated part of the county; a post office box will not constitute an office. Proof of a current lease, if applicable, for the company premises, an affidavit as to ownership or occupancy or proof of association with a county licensee must be submitted to the public safety department upon request. (Ord. of 4-26-94; Ord. of 9-13-94; Code 1977, § 3-25-88; Ord. of 6-27-95(2); Ord. of 7-8-03; Ord. of 2-26-08)

Sec. 134-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building or structure means a building.....

DUA means dwelling units per acre.

Dwelling unit. A dwelling unit consists of one or more rooms which are arranged, designed or used as living quarters for one family or two or fewer unrelated adults and their children and/or grandchildren. A dwelling unit may also be occupied by a family and up to two persons who are not family members.

(1) A dwelling unit shall have an interior bathroom and complete kitchen facilities, permanently installed.

(2) A dwelling unit shall have at least 390 square feet of ~~total~~ living building square footage (as determined and maintained in the records of the Cobb County Tax Assessor) per each adult occupant.

(3) No more than one vehicle per 390 square feet of ~~total~~ living building square footage may be parked regularly overnight at or within the right-of-way adjacent to a dwelling unit. "Regularly" means a majority of nights in any seven-day period.

Exceptions to subparagraphs (2) and (3) may be considered as part of a land use permit processed in accordance with section 134-36.

Executive golf course means a tract of land not less than 65 acres in size dedicated for playing an 18-hole game of golf, which is open to the general public or for private club use. The par shall not be less than 58 from the men's tees as governed by the United States Golf Association. Further, the golf course shall not measure less than 4,000 yards from the men's tees as governed by the United States Golf Association.

Family means one or more persons related by blood, legal adoption, or marriage, or two or fewer unrelated adults, occupying a dwelling. ~~where such~~ Related means persons are all related to each other within the fourth degree, as defined in O.C.G.A. § 53-2-1, which includes parents, children, grandparents, grandchildren, brothers and sisters. State of Georgia authorized foster children of a family member shall also be deemed a member of the family for this purpose.

Floodplain means that area subject

Gross vehicle weight rating (GVWR) means the value specified by the manufacturer or manufacturers as the maximum loaded weight of a single or a combination (articulated) vehicle, or registered gross weight, whichever is greater.

~~Group home means a dwelling shared by four or fewer persons, excluding resident staff, who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential under the direction and guidance of a designated managing caregiver, who must be a resident of the group home. The term "group home" shall not include a halfway house, a treatment center for alcoholism or drug abuse, a work release facility for convicts or ex-convicts, a home for the detention and/or rehabilitation of juveniles adjudged delinquent or unruly and placed in the custody of the state, or other housing facilities serving as an alternative to incarceration. The term "group home" shall also not allow the use of a dwelling as an apartment or duplex. A group home shall not allow use of the dwelling as a home for individuals on parole, probation, or convicted and released from incarceration, for any crimes including child molestation, aggravated child molestation, or child sexual abuse, as defined in O.C.G.A. § 16-6-4 or individuals required to register as sex offenders pursuant to O.C.G.A. § 42-1-12. A group home may include a home for the handicapped. As used in this subsection, the term "handicapped" shall mean:~~

- ~~(1) — Having a physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently;~~
- ~~(2) — Having a record of having such an impairment; or~~
- ~~(3) — Being regarded as having such an impairment.~~

~~However, the term "handicapped" shall not include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals.~~

Group home means a dwelling unit, operated by an affiliate of a National, Regional, State or County organization with a philanthropic mission, shared by four or fewer persons, excluding resident staff, who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education and participation in community activities, under a structured and scheduled plan that must be provided to the County, for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential under the direction and guidance of a designated managing caregiver, designated as such by the affiliate organization, who must be a resident of the group home and available by telephone on a 24 hour basis in case of complaints. A copy of the home rules shall be provided to the County as well as (if applicable) evidence of active enforcement under the Georgia Association of Recovery Residence standards. The schedule of activities may be verified via

periodic inspection by Community Development staff. The term "group home" shall not include a halfway house, a treatment center for alcoholism or drug abuse, a work release facility for convicts or ex-convicts, a home for the detention and/or rehabilitation of juveniles adjudged delinquent or unruly and placed in the custody of the state, or other housing facilities serving as an alternative to incarceration. The term "group home" shall also not allow the use of a dwelling as an apartment or duplex. A group home shall not allow use of the dwelling as a home for individuals on parole, probation, or convicted and released from incarceration, for any crimes including child molestation, aggravated child molestation, or child sexual abuse, as defined in O.C.G.A. § 16-6-4 or individuals required to register as sex offenders pursuant to O.C.G.A. § 42-1-12. A group home may include a home for the handicapped. As used in this subsection, the term "handicapped" shall mean:

(1)

Having a physical or mental impairment that substantially limits one or more of such person's major life activities;

(2)

Having a record of having such an impairment; or

(3)

Being regarded as having such an impairment.

However, "handicapped" shall not include persons who currently use illegal controlled substances, persons who have been convicted of the illegal manufacture or distribution of controlled substances, sex offenders, and juvenile offenders or persons with or without disabilities who present a direct threat to the persons or property of others.

~~Halfway house shall mean any dwelling used as a residence by individuals on parole, probation, or serving a criminal sentence on condition of house arrest, for the purpose of rehabilitation of the individual while transitioning back into the community. The term halfway house shall include a dwelling for recovering alcohol and drug abusers operated to facilitate their reintegration into the community, but not providing treatment for alcohol or drug abuse.~~

~~Halfway houses shall not be located within 2,500 feet of any child care facility, private or public school, church day care facility, school bus stop, public or private playground and parks or swimming pools, or other areas where minors congregate as defined in O.C.G.A. § 42-1-13(a)(1).~~

~~Halfway houses are not allowed in any residential zoning districts, (including any RM districts, SC, UC or RSL districts) except by a special land use permit (SLUP) granted by the board of commissioners. Halfway houses are not allowed in~~

~~mixed use districts, (including UVC and PVC) except by a special land use permit (SLUP) granted by the board of commissioners. Applications for special land use permits for halfway houses shall comply with the provisions of O.C.G.A. § 36-66-4(f).~~

Halfway house shall mean any dwelling used as a residence by individuals on parole, probation, or serving a criminal sentence on condition of house arrest, for the purpose of rehabilitation of the individual while transitioning back into the community.

Halfway houses shall not be located within 1,000 feet of any child care facility, private or public school, church, school bus stop, public or private playground and parks or swimming pools, or other areas where minors congregate as defined in O.C.G.A. § 42-1-12(a)(3).

Halfway houses are not allowed in any residential zoning districts, (including any RM districts, SC, UC or RSL districts) except by a special land use permit (SLUP) granted by the board of commissioners. Halfway houses are not allowed in mixed use districts, (including UVC and PVC) except by a special land use permit (SLUP) granted by the board of commissioners. Applications for special land use permits for halfway houses shall comply with the provisions of O.C.G.A. § 36-66-4(f).

Heavy manufacturing establishment means manufacturing establishments.....

Other service establishments means businesses or locations catering to specialty services, such as an auction house or store, cabinetmaker, caterer, delivery and express service, driving school (private), fur repair and storage, gunsmith shop, locksmith shop, safe and vault repair, scientific instrument repair, taxidermist, tool sharpener and the like.

Pain Clinic and Pain Management Clinic means any clinic, medical practitioner's office or pharmacy that is not affiliated with a hospital, hospice or other facility for treatment of the terminally ill in Cobb County, Georgia, and that also advertises in any medium for any type of pain management services. The primary business purpose of such pain clinics and pain management clinic is to prescribe and/or dispense prescription pain medication and controlled substances to individuals for the treatment of chronic nonmalignant pain.

Par 3 golf course means a tract of land not less than 40 acres in size dedicated for playing an 18-hole game of golf, which is open to the general public or for private club use. The par shall not be less than 27 for nine holes or 54 for 18 holes from the men's tees as governed by the United States Golf Association. Further, the golf course shall not measure less than 1,750 yards or greater than 3,500 yards.

Sec. 134-4. Sale, refinancing or leasing of portion of property.

The sale, refinancing or leasing of any portion of a commercial,

Sec. 134-5 Lots requiring lot size variances prior to rezoning

Any lot which is deficient pertaining to minimum lot size, in which a rezoning is contemplated or needed, shall file an application for variance to the Board of Zoning Appeals. The application for variance must be approved by the Board of Zoning Appeals and ratified by the Board of Commissioners at least 21 days prior to the Board of Commissioners' zoning hearing. However, if the Zoning Division Manager or designee is provided with documentation which demonstrates the lot size deficiency was caused by purchase or condemnation by an entity utilizing the power of eminent domain, then this code section shall not be applied and the application for rezoning will be processed and decided in the usual manner despite the lot size deficiency.

Secs. 134-~~5~~-6 -134-30. Reserved.

Sec. 134-37. Special land use permits.

(a) A special land use permit shall be required for the following types of uses of property regardless of the zoning classification or district for the realty:

(1) Radio, television, microwave, land mobile, telephone or other communication towers or antennas, including antennas or other communications equipment or facilities to be placed on a tower that was or will be constructed pursuant to the exemption set forth in section 134-3(2).

(2) Communication equipment buildings.

(3) Noncommercial or nonprofit public community centers such as a YWCA, YMCA, Girls Club or Boys Club.

(4) Private, parochial or other elementary, middle, junior or high schools which are not a part of the public school system of the state, but which teach the subjects commonly taught in the common schools of the state.

(5) Colleges or universities which are institutions for higher education and are nonprofit educational institutions not owned or controlled by the state or any political subdivision, agency, instrumentality, district or municipality thereof, which provide a program of education beyond the high school level and which admit as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate, and which provide an educational program for which a bachelor's degree is awarded, or provide an educational program, admission into which is conditioned upon the prior attainment of a bachelor's degree or its equivalent, for which a postgraduate degree is awarded, or provide not less than a two-year program which is acceptable for full credit toward a bachelor's degree or its equivalent.

(6) Asphalt plants.

(7) Concrete plants.

(8) Adult entertainment establishments.

(9) Boarding, breeding or raising nondomestic or wild animals.

(10) Private landfills.

(11) Composting facilities.

(12) Waste transfer stations.

(13) Trash/garbage handling, hauling or disposal facilities or any use associated with these uses.

(14) Auto salvaging and wrecking yards.

-
- (15) Automobile storage yards and wrecker services for damaged or confiscated vehicles.
- (16) Used or pre-owned automobile and truck sales lots separate from a new car dealership. No application for a special land use permit shall be considered unless the property on which the special land use permit has been applied for consists of at least one acre of paved surface for parking of vehicles excluding any area used for, but not limited to buildings, offices, service or sales areas, etc.
- (17) Truck stops/refueling stations.
- (18) Coliseums.
- (19) Stadiums.
- (20) Chipping, grinding or reduction of materials, stumps, trees, limbs, construction debris, glass, concrete, asphalt, rock, etc.
- (21) Used or discarded tire storage/disposal facilities.
- (22) Quarries or mining operations.
- (23) Scrap metal, iron or steel collection/recovery.
- (24) Any manufacturing or industrial use which also requires a permit from the environmental protection division of the department of natural resources of the state under the provisions of O.C.G.A. tit. 12, ch. 5, 8 or 9 (O.C.G.A. §§ 12-5-1 et seq., 12-8-1 et seq. or 12-9-1 et seq.).
- (25) Sawmills.
- (26) Hotels (suite).
- (27) Trade shows/expositions.
- (28) Flea markets.
- (29) Pain Clinic and Pain Management Clinic
- (b) The board of commissioners may grant special land use permits for the uses enumerated in subsection (a) of this section. The granting of a special land use permit is conditional upon the site plan considered by the board of commissioners.....

Sec. 134-201.3. SC suburban condominium residential district

The regulations for the SC suburban condominium residential district are as follows:

(1) Purpose and intent. The SC district is established to provide locations.....

(11) Use limitations.....

j. A mandatory homeowners' association must be formed and incorporated which provides for building and grounds maintenance and repair, insurance and working capital. Said association must also include condominium declaration and bylaws, including rules and regulations, subject to staff review and approval. ~~Staff review and approval will be based on a model on file with the county clerk.~~ The declaration and bylaws shall not be enforced by the county. The declaration and bylaws shall, at a minimum, regulate and control the following:.....

Sec. 134-203.2. RSL nonsupportive residential units.

The regulations for the RSL nonsupportive residential units, in addition to all section 134-203 regulations are as follows:.....

(11) Location criteria, design criteria and use limitations.....

j. A mandatory owners association must be formed and incorporated which provides for building and grounds maintenance and repair, insurance and working capital. Said association must also include declaration and bylaws, including rules and regulations, subject to staff review and approval. ~~Staff review and approval will be based on a model on file with the county clerk.~~ The declaration and bylaws shall not be enforced by the county. The declaration and bylaws shall, at a minimum, regulate and control the following:.....

Sec. 134-221.1. UC urban condominium residential district.

The regulations for the UC urban condominium residential district are as follows:.....

(11) Use limitations.....

j. A mandatory homeowners' association must be formed and incorporated which provides for building and grounds maintenance and repair, insurance and working capital. Said association must also include condominium declaration and bylaws, including rules and regulations, subject to staff review and approval.

~~Staff review and approval will be based on a model on file with the county clerk.~~

The declaration and bylaws shall not be enforced by the county. The declaration and bylaws shall, at a minimum, regulate and control the following:.....

Sec. 134-215. O&I office and institutional district.

The regulations for the O&I office and institutional district are as follows:

Purpose and intent. The O&I district is established to provide locations for nonretail commercial uses such as offices and financial institutions, which are on properties delineated within or on the edge of a community activity center and a regional activity center as defined and shown on the Cobb County Comprehensive Plan: A Policy Guide, adopted November 27, 1990. The office and institutional district is designed primarily to provide for four-story and smaller office developments, office uses, motels, hotels, banking and professional offices that complement and provide step-down nodal zoning away from more intensive commercial uses and otherwise to implement the stated purpose of this chapter.....

(3) Permitted uses. Permitted uses are as follows:

Nursery schools and child care centers.

Pain clinic and pain management clinic

1. No onsite dispensing of any prescription medications or controlled substances.
2. One parking space per 200 gross square-feet of building.
3. Hours of operation to be established by the Board of Commissioners, considering the operational hours of surrounding businesses.
4. Signage and lighting plan to be approved by the Board of Commissioners.
5. Special Land Use Permit as provided by Section 134-37.
6. The maximum length of approval for this use is 12 months.

Parking for vehicles.....

Sec. 134-218. - CRC community retail commercial district.

Commencing January 1, 1998, no new applications for a Special Land Use Permit for Self-service Storage Facilities (SSSF) are to be accepted by the board of commissioners. The regulations for the CRC community retail commercial district are as follows:

(1)

Purpose and intent. The CRC district is established to provide locations for retail commercial and service uses which are designed and oriented to serve several neighborhoods making up a community. Projects developed within the CRC district should be done so as compact unified centers. CRC districts should be located on properties which are delineated within a community activity center and regional activity center as defined and shown on the Cobb County Comprehensive Plan: A Policy Guide, adopted November 27, 1990. Additionally, the desired quadrant location will provide for planned developments and one-destination shopping and service locations to serve the community, and will minimize traffic congestion.

(3) Permitted uses. Permitted uses are as follows:

Other consumer goods and services.

Pain clinic and pain management clinic

1. No onsite dispensing of any prescription medications or controlled substances.

2. One parking space per 200 gross square-feet of building.

3. Hours of operation to be established by the Board of Commissioners, considering the operational hours of surrounding businesses.

4. Signage and lighting plan to be approved by the Board of Commissioners.

5. Special Land Use Permit as provided by Section 134-37.

6. The maximum length of approval for this use is 12 months.

Parking for vehicles.

Sec. 134-228. - RRC regional retail commercial district.

Commencing January 1, 1998, no new applications for a Special Land Use Permit for Self-service Storage Facilities (SSSF) are to be accepted by the board of commissioners. The regulations for the RRC regional retail commercial district are as follows:

(3) Permitted uses. Permitted uses are as follows:

Outdoor golf driving ranges (see section 134-270).

Pain clinic and pain management clinic

1. No onsite dispensing of any prescription medications or controlled substances.
2. One parking space per 200 gross square-feet of building.
3. Hours of operation to be established by the Board of Commissioners, considering the operational hours of surrounding businesses.
4. Signage and lighting plan to be approved by the Board of Commissioners.
5. Special Land Use Permit as provided by Section 134-37.
6. The maximum length of approval for this use is 12 months.

Parking for vehicles.

Sec. 134-267. General development standards.

(a) Prerequisites for moving building.

(j) Outdoor displays of merchandise. Where outdoor displays of merchandise are permitted as part of a retail or service establishment (as distinguished from a sales, contractor or supply operation dealing in material or merchandise that is intended for storage or display outdoors) in any nonresidential zoning district, the following minimum requirements shall apply:

(1) The area displaying the merchandise shall be limited to an area no greater than 20 percent of the total lot area.

(2) The location of the outdoor display of merchandise must be shown on a plan approved by the zoning division manager or his/her designee.

(3) The area displaying the merchandise must be screened from any contiguous residentially zoned property.

(4) The area displaying the merchandise may not be located within any required buffers.

(5) The area displaying may be within designated parking spaces, if the spaces are above and beyond the minimum required.

(6) The area displaying merchandise shall not impede vehicular traffic within the site, nor shall it prohibit or disrupt traffic entering or exiting the site from or to public rights-of-way, nor shall it impede adequate site distance to vehicles entering or exiting the site to or from public rights-of-way.

(7) The area displaying the merchandise shall not impede pedestrian traffic within the site, particularly any sidewalks or pedestrian areas designed in accordance with the Americans with Disabilities Act (ADA).

(8) These requirements shall apply to peddlers as defined and regulated in sections 78-81 and 78-83 of the Cobb County Code.

(k) Limitation on utility meters in certain residential zoning districts. Single-family residential zoning districts shall be limited to a maximum one (1) gas meter and one (1) electrical meter per lot. This requirement shall apply to the R-80, RR, R-40, R-30, R-20, R-15, OSC, CS, R-12, RA-4, RA-5, RA-6, and PRD zoning districts. Additionally, this requirement shall apply to the SC, RSL, RM-8, RM-12, and RM-16 zoning districts when developed for single-family detached uses. Application may be made to the Board of Zoning Appeals for a variance to allow more than one electrical or gas meter per lot.

(Ord. of 12-26-72; Ord. of 12-11-90, § 3-28-16.1; Ord. of 9-12-00; Ord. of 7-25-06; Ord. of 2-27-07; Ord. of 7-24-07; Amd. of 2-24-09)

Sec. 134-268. Reserved.

Sec. 134-273. Television, land mobile, communication, microwave and radio transmission antennas and towers over 35 feet in height.

Television, land mobile, communication, microwave and radio transmission antennas and towers shall be subject to the following:

(1) General provisions; applicability.

a. The height limitations set forth in this chapter applicable to buildings and structures shall not apply to towers and antennae which shall be governed by the special use permit procedure set forth in this chapter.

b. These standards shall only be applicable to antennae and towers in excess of 35 feet in height.

c. The board of commissioners may consider for approval a site plan specific request which is in substantial conformance with the requirements listed in this section.

d. In considering applications under this section, it shall be the policy of the county to construe all exemptions from zoning under this chapter narrowly and, unless expressly exempted, to ensure that all proposals to construct television, land mobile, communication, cellular, PCS, wireless communication, microwave and radio transmission towers, antennas and other facilities conform to the requirements set forth herein.

(2) Special use permit required. A special land use permit shall be required for all television, land mobile, communication microwave and radio transmission antennae and towers. An application to place any such facilities on a tower or other facilities constructed, or to be constructed, pursuant to the exemption set forth in section 134-3(2) shall be considered as though the applicant were seeking to build not only the new facilities to be constructed, but also the tower or other facilities that were or are to be built pursuant to that exemption.

(3) Application, design, location and safety requirements.

a. Setback and separation

1. All towers and antennae in excess of 70 feet must be set back a distance equal to the full height of the tower from any adjoining off-site residential structure or as safety concerns may dictate.

2. When proposed to be constructed upon parcels which are less than three acres, all towers shall be set back a distance equivalent to one-half of the tower's height as measured from the tower's base, to any public right-of-way or property boundary. When proposed to be constructed upon parcels which are three acres or greater, towers shall be set back a distance equivalent to height of the tower. However, the Board of Commissioners may waive the requirements contained in this paragraph if it finds that placement of the proposed tower at a different location on the parcel would mitigate any negative effects of the proposed tower upon the adjoining parcels.

3. In any "R," or residential zoning district, any tower over 100-feet in height shall not be located within 1,500 feet from an existing or approved tower that is more than 100 feet in height.

4. Any property within the fall zone of a tower may not be developed for residential uses, or uses in which more than 25 people congregate.

b. Collocation of antennae or other facilities or equipment on existing towers that have already received special land use permits is required, so long as technically feasible and space is available on the existing towers to do so, and all towers should be designed to accommodate at least three users.

c. Accessory structures shall be limited to usages associated with operation of the antennae or towers and shall be appropriate in scale and intensity.

d. All towers and antennae shall be equipped with an anti-climbing device, such as a six-foot barbed strand fence or other appropriate devices to prevent unauthorized access.

e. All towers and antennae must meet or exceed current standards and regulations of the Federal Aviation Administration, the Federal Communications Commission or such governing agency guidelines as may be established from time to time. All towers and antennae must be updated and brought into conformity with such standards and regulations within six months of their adoption. The failure to comply with this provision shall be grounds for the county to require removal or repermitting of the antenna or tower at the owner's expense.

f. At the time of application for building permit, the plans for tower or antenna construction shall be certified by an independent registered structural engineer as meeting all current safety and design standards of all applicable codes.

g. Applicants are required to explore and fully utilize space on existing towers that have already received special land use permits and are required to bear an equitable share of capital, operating and other expenses in connection with such shared usage.

h. Residential sites are strongly disfavored for tower location. Nonresidential sites are encouraged for tower location where possible. Use of platted lots in existing subdivisions is prohibited. In addition to all other criteria contained in this section, applicants proposing towers on residentially zoned parcels must demonstrate that there are no other residentially zoned but not residentially used, locations for the proposed tower, such as parks, schools, churches, and other institutional uses

i. Towers and antennae are encouraged to be located at a height above the tree line no greater than necessary to reasonably accommodate the facilities.

j. In addition, all such towers and antennae shall be designed to minimize visual scenic impact when located on a hill.

k. Any tower approved under the provisions of this section which is not utilized by any communications service provider for any communications related purpose for a period of 24 consecutive months shall lose any privilege of special use previously granted by the board of commissioners, and must thereafter be resubmitted for approval prior to use for any purpose not permitted by the existing zoning

I. Other than amateur radio towers, no new tower shall be permitted unless the applicant demonstrates to the satisfaction of the Board of Commissioners that there is an actual need for the proposed tower and that no existing tower or existing alternative tower structure can accommodate the applicant's proposed antenna. At the time of filing the application for the tower, the items listed below must be satisfactorily addressed by the applicant. All evidence submitted shall be signed and sealed by appropriate licensed professionals or qualified industry experts and shall consist of more than mere conclusory statements. Evidence submitted in connection with this paragraph shall, at a minimum, consist of the following:

- (i) That no existing towers or suitable alternative tower structures are located within the geographic placement area required to meet the applicant's engineering requirements.
- (ii) That existing towers or structures do not have sufficient structural strength to support applicant's antenna and related equipment.
- (iii) That the applicant's proposed antenna(e) on existing towers or structures, or the antenna(e) on the existing towers or structures, would cause interference with the applicant's proposed antenna.
- (iv) That the cost or contractual provisions required by the tower owner to share an existing tower or structure or to adapt an existing tower or structure are unreasonable.
- (v) That the applicant adequately demonstrates that there are other limiting factors that render towers and structures unsuitable.
- (vi) With respect to wireless communications towers, that there is a significant gap in wireless service in the geographic area under consideration, and that this gap is demonstrated by dropped call data and analysis and actual wireless coverage field tests performed in the geographic area under consideration.
- (vii) That a lower tower height was considered but determined not to offer adequate coverage improvement.

For each of the above, the applicant must submit an affidavit listing the existing towers which were considered, and ultimately rejected, by the applicant and provide a detailed explanation of why the existing towers are not usable.

Further, at the time of filing the application for a tower, the applicant shall provide a site plan, scaled elevation drawing of the proposed tower, ~~and~~ information regarding topography, radio frequency engineer's report that details the need for the proposed tower (the radio frequency engineer's report shall address possible alternatives, such as lowering the height of the tower, co-locating on another tower, and incorporating stealth towers such as "monopines," "slick-sticks," and the like), and coverage zone and tower height requirements. The applicant shall provide documentation of all towers within a

three mile radius of the proposed location, to include the number of users approved to collocate and the number of users existing on said towers. The applicant shall be required to submit a written analysis to address the fifteen considerations contained in Cobb County Code Sec. 134-37(e). and the following additional items:

- (i) The proximity of the tower to offsite residential structures and residential areas.
- (ii) The tower's effect on property owners or potential purchasers of nearby or adjacent residentially zoned properties.
- (iii) The height and species of surrounding trees and foliage.
- (iv) The height of existing structures.
- (v) The aesthetic design of the tower in relation to reducing or eliminating visual obtrusiveness to the surrounding area.
- (vii) The impact of the proposed tower upon the scenic views and visual quality of the area

The Zoning Division of the Community Development Agency shall be authorized to charge a fee to applicants in an amount set by the Board of Commissioners designed to allow the county to retain the services of one or more consultants, engineers, or other experts in the area of radio frequency engineering or other relevant fields to assist the county in analyzing the application.

(4) Grandfather clause. Any existing tower or antenna location existing on the date of adoption of the ordinance from which this section is derived shall be grandfathered and nonconforming and not required to meet the requirements of this section, subject to the other provisions of this chapter.

(5) Landscape buffer and screening requirement. ~~Unless otherwise noted within this section's requirements, or otherwise approved by the board of commissioners, the special land use permit hearing, any commercial tower or antenna which abuts a residentially zoned property shall have a minimum 40-foot setback from the residential property, 15 feet of which should be a landscaped~~ Telecommunication tower equipment compounds shall have a 15-foot screening buffer between the tower and the residentially zoned property which will be subject to county staff approval. Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities and/or access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated, undisturbed buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126.

a. Objectives. The landscape screening buffer required by this section shall be implemented in connection with a permitted project and shall address the following objectives:

1. Screening to enhance aesthetic appeal;
 2. Control or direction of vehicular and pedestrian movement;
 3. Reduction of glare;
 4. Buffering of noise; and
 5. Establishment of privacy.
- b. Standards. The landscape screening buffer required by this section is subject to review and approval by county staff in accordance with the following standards:
1. Plantings are to be a mix of rows of evergreen trees and shrubs, deciduous trees and taller evergreen trees.
 2. Species are to be ecologically compatible to the site and appropriate for the design situation.
 3. Unless public safety concerns dictate otherwise, buffers should provide a maximum visual barrier.
 4. The minimum height of plant materials at installation is to be five feet for trees.
 5. Fencing or walls are to be a minimum of six feet in height as approved by county staff.
 6. Trees included in buffer plantings may be counted toward site density calculations as required by chapter 50, article VI, pertaining to tree preservation and replacement, subject to review and approval of county staff.
 7. Buffers shall be regularly maintained by the property owners to ensure that the objectives and standards of this section are met.
 8. When topography and existing conditions allow, the required landscape buffer should be an undisturbed buffer; provided, however, the buffer may be crossed by an access drive as shown on the site plan and/or necessary utilities.
 9. Any appeals from a determination by county staff regarding the landscape buffer shall be to the board of zoning appeals.
- (6) Exemptions.
- a. A single antenna under 70 feet in height owned and operated by a federally-licensed amateur radio station operator shall be exempted from the requirements of this section. However, the owner or operator of such antenna shall be required to comply with all applicable county, state and federal building codes.
 - b. Roof antennae on nonresidential structures are exempted from the requirements of this section, except that such antennae shall meet or exceed FAA and FCC standards. Subsection (4) of this section shall also apply to roof antennae on nonresidential structures. Such nonresidential structures shall include signs, light poles, water towers and other such suitable freestanding structures as may be located throughout the county. Antenna placement above the height of the structure utilized shall be limited to 20 feet. Placement of antennas or other communications equipment on any grandfathered, nonconforming use shall provide no vested right for continued use of the site should the nonconforming use cease.

c. Placement of antennae or other facilities or transmission equipment on existing towers that have already obtained a special land use permit, as well as on towers that are covered by subsection (4) of this section, shall be exempted from the requirements of this section so long as the structure or height of such existing tower is not altered. The zoning division manager or his designee shall be authorized to grant administrative approval to site plan amendments necessitated by the placement of such additional equipment in previously approved equipment compounds. All requirements of subsection (5) b of this section shall apply to any site plan so amended. This exemption shall not apply to applications seeking placement of antennae or other facilities or transmission equipment on towers constructed pursuant to the exemption set forth in section 134-3(2) of this chapter.

~~d. — A single tower up to 70 feet in height placed on sites zoned community retail commercial, neighborhood retail commercial, office and institutional, urban village commercial, planned village commercial, office/service, neighborhood shopping or planned shopping center shall be exempted from all advertising, posting and hearing requirements and shall not require placement of signs or any other such public notice prior to consideration by the board of commissioners. Such tower placement must be approved by a simple majority of the board of commissioners meeting in formal session, subject to the following conditions:~~

~~1. — Application for such approval must be made to the zoning division staff at least five working days prior to the last date by which a request can be made to include consideration of approval on the agenda of the board of commissioners zoning hearing.~~

~~2. — Application for such approval must include all information normally required by the special land use permit process.~~

~~3. — An application fee equivalent to that normally assessed for a special land use permit application shall be required.~~

~~4. — Any tower so placed shall be set back from any residential structure a minimum distance equal to the vertical height of the tower, or such setback as safety may dictate.~~

~~5. — All other relevant provisions of the zoning district shall apply.~~

~~e. — Towers placed on sites zoned regional retail commercial, general commercial, light industrial, heavy industrial, tourist services, office mid-rise or office high-rise shall be exempted from advertising, posting and hearing requirements and shall not require placement of signs or any other such public notice prior to consideration by the board of commissioners. Such tower placement must be approved by a simple majority of the board of commissioners meeting in formal session, subject to the following conditions:~~

~~1. — Application for such approval must be made to the zoning division staff at least five working days prior to the last date by which a request can be made to include consideration of approval on the agenda of the board of commissioners zoning hearing.~~

- ~~2. Application for such approval must include all information normally required by the special land use permit process.~~
 - ~~3. An application fee equivalent to that normally assessed for a special land use permit application shall be required.~~
 - ~~4. Any tower so placed shall be set back from any residential structure a minimum distance equal to the vertical height of the tower, or such setback as safety may dictate.~~
 - ~~5. The height of such exempted towers shall not exceed 70 feet unless such tower is designed and constructed capable of completely supporting two or more commercial users. Towers capable of completely supporting two or more commercial users shall be exempted at heights up to 120 feet.~~
 - ~~6. Towers designed and constructed capable of completely supporting three or more commercial users shall be exempted at heights up to 150 feet. In no case shall these exemptions apply to any tower in excess of 150 feet in height.~~
 - ~~7. Any tower 90 feet in height or greater seeking approval under the provisions of this section must be a minimum distance of one quarter mile from any tower 90 feet in height or greater previously permitted by the board of commissioners.~~
 - ~~8. All other relevant provisions of the zoning district shall apply.~~
 - ~~e. Any application made under the provisions of subsection (6)d or (6)e of this section which is denied by the board of commissioners shall automatically be placed on the next available zoning hearing agenda as a special land use permit application, unless withdrawn by the applicant. All procedural requirements of the special land use permit process will be met, including the posting of notice on the property involved and the conduct of public hearings. No additional fee shall be associated with any such application.~~
- ~~(Ord. of 12-26-72; Ord. of 12-11-90, § 3-28-16.7; Ord. of 3-12-96; Ord. of 2-9-99)~~

Sec. 134-277. Junk, abandoned or inoperative vehicles.

(a) Any automobile, vehicle, mobile home, manufactured home or trailer of any kind or type, without a valid license plate attached thereto, shall not be parked or allowed to stand on any residentially zoned property or other zoned property unless it shall be in a completely enclosed building or on property zoned HI heavy industrial, with a land use permit issued for the operation of an automobile wrecking business or junkyard.

(b) No automobile, vehicle, mobile home, manufactured home or trailer of any kind or type, which shall be in an inoperative or junk condition, shall be parked or allowed to stand on any residentially zoned property or other zoned property unless it is:

(1) In an enclosed building;

(2) On the premises of a business enterprise operated in a lawful manner, when necessary to the operation of such business enterprise; or

(3) On property occupied and used for repair, reconditioning or remodeling of vehicles in conformance with this chapter.

(c) Nothing in this section shall authorize the maintenance of a public or private nuisance as defined under other provisions of law.

(d) For purposes of this section, vehicles in an inoperative or junk condition shall include but not be limited to any automobile, vehicle, mobile home, manufactured home or trailer of any kind or type, or contrivance or part thereof, the condition of which is one or more of the following:

(1) Wrecked.

(2) Dismantled.

(3) Partially dismantled.

(4) Inoperative.

(5) Abandoned.

(6) Discarded.

(7) One which does not have a valid license plate attached thereto.

(e) This section shall not be the exclusive regulation

Sec. 134-278. Erection, installation and use of factory-built buildings and dwelling units and manufactured homes.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:.....

(c) Class II manufactured homes.....

b. The following, as a minimum, shall be filed with the application:.....

3. A fee in an amount determined by the board of commissioners and on file in the office of the zoning division ~~and with the clerk of the board of commissioners.~~

4. A certificate from an inspector selected or approved.....

Sec. 134-314. On-premises signs.

(a) Generally. All on-premises signs under this section require a permit, and may contain a noncommercial message in any zoning district where an on-premises sign is allowed as provided in this section.....

(d) Wall signs/awning signs. In addition to the other provisions of this article, the following regulations shall apply to wall signs, including awning signs. Wall signs and awning signs located in areas zoned LRO, LRC, NRC, CRC, NS, PSC, GC, RRC, TS, O&I, LI, HI, OMR, OHR, RHR, OS, UVC or PVC or other commercial or industrial zoning districts, shall be governed by the following regulations and any other applicable regulations in this chapter.

(1) Sign area.....

c. The maximum sign area for a wall sign/awning sign shall be calculated as follows: for each ~~one~~ two linear foot of the wall or building along each face of the building, ~~two~~ one square feet of sign area is allowed on that face.....